HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 3483 (S/S) year 2001

Prem Singh Rawat
Versus
State of Uttaranchal and another

Approved for reporting.

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~~Not approved for reporting~~

Date of decision: 01.11.2003

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 3483 (S/S) 2001

Court No. 6

Prem Singh Rawat
S/o Late Sri Jogeshwar Singh Rawat,
R/o at present posted as Assistant Teacher,
Govt. High School, Bhimrai Khal,
District Pauri Garhwal. …… Petitioner

Versus

1. State of Uttaranchal
   through Sachiv Shiksha,
   Uttaranchal Government, Dehradun.
2. Zila Vidyalaya Nirikshak,
   Pauri Garhwal. …….. Respondents

Date: 1st November 2003

Hon. Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for issue of a writ, order or direction in the nature of certiorari quashing the order dated 10th July 2001.

Brief facts of the case are that the petitioner is an Assistant Teacher (LT Grade) at Government High School, Bhimrai Khal, Distt. Pauri Garhwal.

The grievance of the petitioner is that he has been transferred from Government High School, Bhimrai Khal to Government Inter College Kairasain in a malafide manner. A perusal of the transfer order shows that the petitioner has been transferred alongwith other persons and it is a routine transfer. The transfer has been made on the public interest. In view of the facts and circumstances, I find no infirmity in the order of transfer of the petitioner.

It has been held by the Apex Court in the case of Mrs. Shilpi Bose & others V/s State of Bihar & others reported in A.I.R. 1991 Supreme Court 532, that transfer orders are not amenable to writ jurisdiction under Article 226 of the Constitution of India. The observations of the Apex Court are quoted below:

"In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected partly should approach the higher authorities in the Department. If the Courts continue to interfere with day-to-day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer orders."

Similar view has been taken by the Apex Court in (2001) SCC 5 page 508 State Bank of India V/s Anjan Sanyal & others, which is quoted below:-

"An order of transfer of an employee is a part of the service conditions and such order of transfer is not required to be interfered with lightly by a court of law in exercise of its discretionary jurisdiction unless the court finds that either the order is mala fide or that the service rules prohibit such transfer or that the authorities, who issued the order, had not the competence to pass the order."

Transfer order having been passed in the public interest, no interference under Article 226 of the Constitution of India can be made.

In view of the aforesaid facts and circumstances, I fine no force in the writ petition.

Writ petition is dismissed. No order as to costs.

(Rajesh Tandon, J.)

01.11.2003
Gur.